

PATENT
790001-2043**AMENDMENTS TO THE DRAWINGS**

Please accept the "Replacement Sheet" drawing which shows amended Figure 54 (the numeral "7" has been corrected to read ---17---), without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents.

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Reconsideration and withdrawal of the rejections of this application and consideration and entry of this paper are respectfully requested in view of the herein remarks, which place the application in condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1-10 and 12-19 are now pending in this application. Claims 11 and 20-27 have been cancelled without prejudice. Applicants reserve the right to pursue any and all cancelled subject matter without prejudice, admission, surrender or any intention to create any estoppel as to equivalents.. Claims 1 and 2 have been amended to switch the "wherein" clause at the end of the respective claims. Claims 8 and 14 have been amended to insert the "wherein" clause of claim 11 (which has been cancelled). No new matter has been added.

The applicants reserve the right to pursue the subject matter of claims 20-27 in a continuing or divisional application.

The applicants appreciate the Examiner's acknowledgement of allowable subject matter with respect to claims 4, 9, 10, 12 and 17.

II. AMENDMENT TO THE DRAWINGS

The replacement sheet is amended to correct a typographical error in Figure 54 such that the number "7" has been substituted with the number --17--. This is consistent with the location of 17 elsewhere in the specification and in other figures (see e.g. Figures 76-79).

III. THE 35 U.S.C. 112, 2nd PARAGRAPH REJECTIONS HAVE BEEN OVERCOME

Claim 16 was rejected as allegedly being indefinite. Reconsideration and withdrawal of this rejection are requested in light of the amendment to Figure 54. Claim 16 encompasses the embodiment shown by Figures 54 and 76-79. The silicidation stopper corresponds to insulator 17 and the method of manufacturing the stopper is described from page 63, line 4 through page 68, line 11 of the specification.

IV. THE 35 U.S.C. 102 REJECTION HAS BEEN OVERCOME

Claims 1-3 and 5-7 were rejected as allegedly being anticipated by Inaba et al., U.S. Patent 6,525,403 ("Inaba").

MPEP 2131 illustrates the requirements necessary to establish anticipation:

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- (1) " 'A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' see *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)"; and
- (2) " 'The identical invention must be shown in as complete detail as is contained in the...claim.' see *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)."

Claim 1 as amended is directed to a semiconductor device which has "a width of the semiconductor layer in the channel area in the second direction is smaller than a width of the semiconductor layer in the source/drain extension area in the second direction". (See also Figures 8 and 16). With this structure, it is possible to both suppress the short channel effect and reduce the diffusion layer sheet resistance in a three-dimensional FinFET.

In contrast, Inaba discloses a three-dimensional FinFET, but the FinFET does not include a source/drain extension area in the semiconductor layer. As such, Inaba does not teach "each and every element set forth in the [applicants'] claims". Therefore, the rejection based on Inaba should be withdrawn.

V. THE 35 U.S.C. 103 REJECTION HAS BEEN OVERCOME

Claims 8, 11 and 13 were rejected as allegedly being obvious over Inaba in view of Aller et al., U.S. Patent Application Publication 2004/0222477 ("Aller").

Claims 14-16, 18 and 19 were rejected as allegedly being obvious over Inaba in view of Paton et al., U.S. Patent Application Publication 2004/0061191 ("Paton").

In order to establish a *prima facie* case of obviousness, all claim limitations must be taught or suggested by the prior art. MPEP 2143.03 quoting *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

As noted with regard to the anticipation rejection made above, claim 1 includes additional claim elements which were not taught or suggested in Inaba. Likewise, for obviousness purposes these additional claim elements are also not taught or suggested.

As the Aller and Paton references were primarily used to address other claim elements, these references do not serve to remedy the deficiencies of the Inaba reference and therefore, the rejection based on obviousness should be withdrawn as all claim limitations have not been taught or suggested by Inaba in view of Aller or Paton.

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Even if another reference was discovered by the Examiner which did teach all of the elements of claims 1-3 and 5-7 as amended, the citation of Aller (reference to a plurality of fins) and Paton (reference to a source/drain extension) merely represents a "collection of elements" and would not render the applicants' claims obvious absent some reason to isolate the teaching of Aller and Paton and combine them with Inaba. Considerations of obviousness require that both the applicants' claimed invention and the references cited be considered "as a whole" (see MPEP 2141.02). There was no reason to isolate a specific teaching from Aller and Paton as was done in the present Office Action, especially when considering the person of ordinary skill in the art while having the Aller and Paton references before them, would not have the applicants' claimed invention before them to act as a roadmap as suggested in the June 30, 2005 Office Action. Even if Paton's source/drain extension area could be incorporated into the Inaba device, one skilled in the art still would not be able to construct the present invention since the source/drain area is formed adjacent to a channel area. It has long been held that "[i]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." (see *In re Wesslau*, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965)). Therefore, the obviousness rejection of claims 8, 11, 13-16, 18 and 19 can be withdrawn for these reasons as well.

REQUEST FOR INTERVIEW

In the interest of adhering to the tenets of compact prosecution and obtaining good customer service (see page 7 of the FY-2004 Performance and Accountability Report), the applicants request that the teachings of MPEP 707.07(j), sections II and III be applied, especially with regard to the offer of suggestion for correction by the Examiner if the rejections are upheld.

In accordance with MPEP 713.01, section III, should any issue remain as an impediment to allowance, an interview with the Examiner and SPE are respectfully requested; and, the Examiner is additionally requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview ("An interview should normally be arranged for in advance, as by letter, facsimile, electronic mail, telegram or telephone call, in order to insure that the primary examiner and/or the examiner in charge of the application will be present in the office." *Id.*).

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In view of the remarks and amendments herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution. The Commission is authorized to charge any fee occasioned by this paper, or credit any overpayment of such fees, to Deposit Account No. 50-0320.

Respectfully submitted,
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